
The Parliament of the Commonwealth of Australia

Report 31

Three Treaties Tabled on 7 March 2000

Joint Standing Committee on Treaties

April 2000

© Commonwealth of Australia 1999

ISBN



Contents

Membership of the Committee.....	v
Recommendations.....	vii
1 Introduction.....	1
Purpose of the report.....	1
Availability of documents.....	2
Conduct of the Committee’s review.....	2
2 Convention on the Safety of UN and Associated Personnel.....	5
Proposed treaty action.....	5
Evidence presented.....	6
Who is covered under the Convention?	6
Establishment of jurisdiction.....	7
Other evidence.....	7
Conclusions and Recommendations	8
3 Partial withdrawal of reservation to CEDAW	11
Proposed treaty action.....	11
Evidence presented.....	12
Conclusions and recommendation	13
4 International Customs Convention.....	15
Proposed treaty action.....	15
Evidence presented.....	16
Conclusion and recommendation	17

Appendix A - Extract from Resolution of Appointment	19
Appendix B - National Interest Analyses.....	21
Safety of UN and Associated Personnel.....	21
Partial Withdrawal of Reservation to CEDAW	27
Amendment to International Convention on the Simplification and Harmonisation of Customs Procedures	31
Appendix C - Submissions	39
Appendix D - Witnesses at Public Hearings.....	41
Appendix E - Parties to the 1973 International Customs Convention	43



Membership of the Committee

Chair The Hon Andrew Thomson MP

Deputy Chair Senator Barney Cooney

Members	The Hon Dick Adams MP	Senator Andrew Bartlett
	The Hon Bruce Baird MP	Senator Helen Coonan
	Kerry Bartlett MP	Senator Joe Ludwig
	Anthony Byrne MP	Senator Brett Mason
	Kay Elson MP	Senator the Hon Chris Schacht
	Gary Hardgrave MP	Senator Tsebin Tchen
	De-Anne Kelly MP	
	Kim Wilkie MP	

Committee Secretariat

Secretary Grant Harrison

Senior Research Officers Susan Redman

Robert Morris

Administrative Officer Elizabeth Halliday



Recommendations

Convention on the Safety of UN and Associated Personnel

The Committee supports the *Convention on the Safety of United Nations and Associated Personnel* and recommends that binding treaty action be taken (paragraph 2.17).

The Committee recommends that the Attorney-General and the Minister for Foreign Affairs develop and raise for discussion in appropriate international fora, proposals to strengthen the protection afforded to non-United Nations humanitarian and development assistance workers (paragraph 2.19).

Partial withdrawal of reservation to CEDAW

The Committee supports the proposed partial withdrawal of Australia's reservation concerning women in combat and combat related duties to the *United Nations Convention on the Elimination of all Forms of Discrimination Against Women*, and recommends that action be taken to partially withdraw Australia's reservation (paragraph 3.15).

International Customs Convention

The Committee supports the *Protocol of Amendment to the International Convention on the Simplification and Harmonisation of Customs Procedures*, and recommends that binding treaty action be taken (paragraph 4.16).

Introduction

Purpose of the report

- 1.1 This Report contains advice to Parliament on the review by the Joint Standing Committee on Treaties (the Committee) of the following proposed treaty actions which were tabled on 7 March 2000¹:
- ratification of the *Convention on the Safety of United Nations and Associated Personnel*, in Chapter 2;
 - partial withdrawal of Australia's reservation regarding women's employment in combat and combat related duties to the *United Nations Convention on the Elimination of all Forms of Discrimination Against Women*, in Chapter 3; and
 - amendments to the *International Convention on the Simplification and Harmonization of Customs Procedures*, in Chapter 4.
- 1.2 We have commenced, but not yet completed, our review of six other proposed treaty actions which were also tabled on 7 March 2000:
- accession to the *Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations*;
 - the *Agreement between Australia and New Zealand on Child and Spousal Maintenance*;

1 Senate Journal No. 99, 7 March 2000, pp 2367-8; House of Representatives, *Votes and Proceedings*, No 93, 7 March 2000, pp. P1233-4.

- the *Agreement for Cooperation between Australia and the United States of America concerning Technology for the Separation of Isotopes of Uranium by Laser Excitation*;
- the *Agreement between the Australia and the Slovak Republic on Trade and Economic Relations*;
- the *Agreement between Australia and Denmark on Social Security*; and
- the *Agreement between Australia and Romania for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income*.²

1.3 We expect to report on these treaties in our next report, which will be presented to Parliament shortly. The Chairman has written to the Minister for Foreign Affairs and other relevant Ministers advising them why it has not yet been possible to complete our review of all of the proposed treaty actions tabled on 7 March 2000.

Availability of documents

1.4 The advice in this Report refers to, and should be read in conjunction with, the National Interest Analysis (NIA) prepared for each proposed treaty action. Copies of the NIAs are at Appendix B. These analyses were prepared by the government agency responsible for the administration of each treaty action, and are tabled in Parliament as aids to parliamentarians when considering the proposed treaty action.

1.5 Copies of each of the treaty actions and NIAs can be obtained from the Treaties Library maintained on the Internet by the Department of Foreign Affairs and Trade (DFAT). The Treaties library is accessible through the Committee's website at www.aph.gov.au/house/committee/jsct. Copies of the treaty actions can also be obtained from the Committee Secretariat.

Conduct of the Committee's review

1.6 Our review of each of the proposed treaty actions tabled on 7 March 2000 was advertised in the national press and on our web site. A number of

² Senate Journal No. 99, 7 March 2000, pp 2367-8; House of Representatives, *Votes and Proceedings*, No 93, 7 March 2000, pp. P1233-4.

submissions were received in response to the invitation to comment in the advertisement. A list of those submissions is at Appendix C.³

- 1.7 For the proposed treaty actions reviewed in this Report, we gathered evidence at a public hearing on 13 March 2000. Appendix D lists the witnesses who gave evidence at this hearing.
- 1.8 A transcript of the evidence taken at these hearings can be obtained from the database maintained on the Internet by the Department of the Parliamentary Reporting Staff at www.aph.gov.au/hansard/joint/committee/comjoint.htm, or from the Committee Secretariat.
- 1.9 We always seek to consider and report on each proposed treaty action within 15 sitting days of it being tabled in Parliament. In the case of the proposed treaty actions tabled on 7 March 2000, the 15 sitting day period expires on 13 April 2000.

³ Our review of these proposed treaty actions was advertised in *The Weekend Australian* on 11/12 March 2000.

Convention on the Safety of UN and Associated Personnel

Proposed treaty action

2.1 The principal objective of the *Convention on the Safety of United Nations and Associated Personnel* (the Convention) is to enhance the safety of United Nations (UN) and associated personnel. The Convention provides for cooperative mechanisms between State Parties for the prevention and prosecution of crimes against UN and associated personnel. The crimes which are punishable by penalties under the laws of each State Party are set out in the Convention and include:

- a murder, kidnapping or other attack upon UN or associated personnel;
- a violent attack upon the official premises, the private accommodation or the means of transportation of UN or associated personnel;
- a threat to commit any such attack;
- an attempt to commit any such attack; and
- participating as an accomplice or ordering others to commit any such attack.¹

2.2 The Convention specifies various obligations including that:

- State Parties must take appropriate measures to ensure the safety of UN and associated personnel who are deployed in their territory;

1 NIA for the UN Convention, p. 3.

- the military, police and other personnel must bear distinctive identification;
 - host states must conclude an agreement with the UN on the status of the operation and personnel engaged in the operation; and
 - transit states must facilitate unimpeded transit of personnel to and from the host state.
- 2.3 The Commonwealth Government proposes to ratify the Convention because of an increasing number of attacks against UN and associated personnel deployed in UN operations. The Convention would help ensure that the perpetrators of such crimes against UN and associated personnel, including Australians working for the UN, are brought to justice.

Evidence presented

Who is covered under the Convention?

- 2.4 The UN and associated personnel covered under the Convention include:
- those engaged or deployed by the UN as members of the military, police or civilian components of a UN operation,
 - other officials and experts on mission to the UN or its specialised agencies who are present in an official capacity in the area where a UN operation is being conducted; and
 - certain other persons, such as civilian contractors and persons belonging to humanitarian non-government organisations, who carry out activities in support of the mandate of the UN operation and have been given consent by the UN to carry out those activities.²
- 2.5 We were advised that UN volunteers are covered by the Convention provided they meet the above conditions. Autonomous organisations, for example non-government humanitarian organisations, would not be covered under the Convention, unless they were specifically contracted by the UN.³
- 2.6 We received two submissions which argued for the strengthening of the protection of humanitarian workers who do not come under the definition

2 Keith Holland, (Attorney-General's Department (AGs)), *Transcript of Evidence*, 13 March 2000, pp. TR1.

3 Keith Holland, (AGs), *Transcript of Evidence*, 13 March 2000, pp. TR3-4.

of associated personnel. World Vision Australia referred to the need to protect humanitarian personnel who are often resident in countries prior to UN deployment, who frequently work alongside the UN without a specific agreement and who often remain after a UN mission has ended.⁴ The Australian Council for Overseas Aid also urged the Parliament to take further steps 'to ensure that humanitarian workers conducting life-saving work on behalf of the international community do so with the greatest protection and support'.⁵

Establishment of jurisdiction

- 2.7 The Convention obliges each State Party to establish jurisdiction over the crimes set out in the Convention. The Attorney-General's Department advised that legislation giving domestic effect to the Convention is due to be tabled in Parliament during the current session⁶.
- 2.8 State Parties must try offenders if extradition of the offender is refused. It is already permissible under Australian extradition law to refuse extradition on the grounds of the Australian nationality of the accused. The effect of the Convention is that if Australia refuses to extradite an offender, it is obliged to try the offender; Australia cannot refuse to extradite without giving consideration to the evidence against the offender.⁷

Other evidence

- 2.9 Further evidence was provided by the Attorney-General's Department on the following matters:
- the Convention is an international response to an increase in the number of attacks on UN and associated personnel who are deployed during UN operations;⁸
 - the costs to prosecute or extradite criminals under the Convention are not expected to be high. Additional funds to normal budget allocations have not been sought for extradition proceedings and prosecutions;⁹ and

4 World Vision Australia, *Submission No. 4*, p. 1.

5 Australian Council for Overseas Aid, *Submission No. 5*, p. 1.

6 Norman Bowman, (AGs), *Transcript of Evidence*, 13 March 2000, p. TR3.

7 Michael Manning, (AGs), *Transcript of Evidence*, 13 March 2000, p. TR3.

8 Keith Holland, (AGs), *Transcript of Evidence*, 13 March 2000, p. TR1.

9 Keith Holland, (AGs), *Transcript of Evidence*, 13 March 2000, p. TR2.

- the response from the States and Territories to the Convention has been positive.¹⁰
- 2.10 The United Nations Association of Australia supported the proposed ratification of the Convention and affirmed the points made in the NIA.¹¹ The Australian Red Cross, World Vision Australia and the Australian Council for Overseas Aid also endorsed Australia's ratification of the Convention.¹²
- 2.11 We also received a comprehensive and thoughtful submission from Roy Abbott, from Randwick NSW, arguing that the Convention is 'clumsily drafted' and 'lacks clarity of definition and precision of applicability.' Mr Abbott suggested that the Convention, if ratified, would 'attract international litigation for years' and would not increase the protection available to UN and associated personnel.
- 2.12 He concluded that a better result would be achieved if closer attention was paid to the Rules of Engagement developed for UN operations. He mentioned, in particular, the need to ensure that these Rules reflect the different circumstances and situations facing UN and associated personnel in operations around the world, and to ensure that there is clear communication between the UN and its personnel on the ground.¹³

Conclusions and Recommendations

- 2.13 Australia has a long and distinguished record of support and involvement in UN operations around the world. Our recent leadership of the International Force in East Timor is a notable example of our commitment to the objectives sponsored by the UN.
- 2.14 Support for this UN Convention is a logical extension of this commitment. People who work with, or in association with the UN, deserve as much protection as the organisation and the international community can provide. This Convention is one element of that protection. It will not guarantee protection for UN and associated personnel while participating in UN operations, but it will help ensure that those who commit crimes against such personnel are brought to justice.

10 Keith Holland, (AGs), *Transcript of Evidence*, 13 March 2000, p. TR4.

11 United Nations Association of Australia Incorporated, *Submission No. 1*, p. 1.

12 Australian Red Cross, *Submission No.3*, p. 1; World Vision Australia, *Submission No. 4*, p. 1; Australian Council for Overseas Aid, *Submission No. 5*, p. 1.

13 Roy Abbott, *Submission No. 2*, pp1-5.

- 2.15 We note the concerns raised by Mr Abbott about the clarity with which various provisions in the Convention have been drafted. We will be writing to the Attorney-General drawing his attention to these matters and seeking a response.
- 2.16 Nevertheless, we consider that the fundamental purpose of the Convention is sound.

Recommendation 1

- 2.17 **The Committee supports the *Convention on the Safety of United Nations and Associated Personnel* and recommends that binding treaty action be taken.**
- 2.18 We are also supportive of those submissions which argue that the international community should act to protect personnel working for non-government organisations providing humanitarian and development assistance outside the charter of the UN.

Recommendation 2

- 2.19 **The Committee recommends that the Attorney-General and the Minister for Foreign Affairs develop and raise for discussion in appropriate international fora, proposals to strengthen the protection afforded to non-United Nations humanitarian and development assistance workers.**

Partial withdrawal of reservation to CEDAW

Proposed treaty action

- 3.1 Australia ratified the *Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW) on 28 July 1983, with two reservations. It is proposed that one of the reservations, concerning women in combat and combat related duties, be partially withdrawn. The other reservation, relating to maternity leave with pay or comparable social security benefits, will remain unchanged.
- 3.2 The original reservation was lodged at the time of ratification because Australian Defence Force (ADF) policy and domestic law excluded women from combat and combat related duties. However, in 1992 ADF policy was changed to allow women to perform combat related duties. The *Sex Discrimination Act 1984* was amended in 1995 to reflect this policy change.
- 3.3 The effect of this change in policy and law is that women employed in the ADF are now permitted to carry out all Defence Force duties except combat duties. Combat duties are declared to be duties 'requiring a person to commit, or to participate directly in the commission of, an act of violence against an adversary in time of war'.¹
- 3.4 Women can now be employed as pilots and aircrew in the Airforce, helicopter pilots and field intelligence officers in the Army, and marine engineers and all positions at sea in the Navy.

¹ NIA for Withdrawal of CEDAW reservation, p. 2.

- 3.5 The partial withdrawal of Australia's original reservation will bring the reservation into line with current domestic law and policy, which is to exclude women from combat duties.

Evidence presented

- 3.6 The Office of the Status of Women consulted broadly with the States and Territories, with non-government organisations and with Church and other professional groups in the community about the proposed change. There was broad acceptance for the change and acknowledgment that the current reservation does not fit with domestic policy.²
- 3.7 We heard from the Office of the Status of Women and the Department of Defence that women are still eligible for employment in almost 90 per cent of all categories of employment in the Australian Defence Force. The only areas that women are excluded from are direct combat positions. Under the amended CEDAW, the combat duties that women will continue to be excluded from employment:
- in armour, artillery, combat engineer and infantry units;
 - as airfield defence guards in the RAAF; and
 - as clearance divers in the Navy³.
- 3.8 There were however some critics of the proposed partial withdrawal of the reservation.
- 3.9 The Endeavour Forum opposed the partial withdrawal for the following reasons:
- women in combat related duties is not conducive to their indispensable roles as mothers;
 - there are difficulties in separating 'combat duties' with 'combat related duties';
 - the strength and stamina standards of the Australian Defence Force in combat related duties would be lowered;
 - litigation regarding women and their child care problems would increase; and

2 Karen Bentley (Department of Prime Minister and Cabinet), *Transcript of Evidence*, 13 March 2000, p. TR5; NIA for Withdrawal of CEDAW reservation, p. 3.

3 Commodore Gates (Department of Defence), *Transcript of Evidence*, 13 March 2000, p. TR6.

- it is unnecessary to report to the CEDAW committee on issues that can be dealt with domestically.⁴
- 3.10 The Festival of Light (SA) and the Australian Family Association (WA Division) made submissions with similar arguments to oppose the treaty action.⁵ The Institute of Men's Studies also argued against women in combat and combat related roles in the Defence Force 'for the sake of efficiency and battle preparedness'.⁶
- 3.11 We were also advised that the ADF is currently developing a competency based employment policy. This would mean that decisions about the employment of women in the ADF would not be based on gender but on competence. This could mean that if a woman had the necessary skills and strength it would be possible for them to be employed in combat duties. It is expected that the competency based employment framework will be available for Government consideration by mid-2001.⁷

Conclusions and recommendation

- 3.12 This proposed withdrawal to the reservation to CEDAW will place no additional costs on Australia, nor does it require the Government to take any action in addition to its current policy on employment of women in the ADF.
- 3.13 A minor additional obligation on Australia will be to report to the CEDAW committee on the measures adopted in respect of women in combat related duties.
- 3.14 Australian law and policy already prevent discrimination against women in combat related duties. We support the partial withdrawal of this reservation as it aligns Australia's treaty obligations under CEDAW with current domestic law and policy.

4 Endeavour Forum Inc., *Submission No. 3*, pp. 2-4.

5 Festival of Light (SA), *Submission No. 1*, pp. 2-4; Australian Family Association (WA Division), *Submission No. 2*, pp. 1-2.

6 The Institute of Men's Studies, *Submission No. 4*, pp. 1, 5.

7 Commodore Gates (Department of Defence), *Transcript of Evidence*, 13 March 2000, p. TR6.

Recommendation 3

- 3.15 **The Committee supports the proposed partial withdrawal of Australia's reservation concerning women in combat and combat related duties to the *United Nations Convention on the Elimination of all Forms of Discrimination Against Women*, and recommends that action be taken to partially withdraw Australia's reservation.**
- 3.16 The question of whether women in the ADF should be allowed to participate in combat duties under a competency based employment framework is not a matter for the Treaties Committee to consider. It is a matter for the Government.

International Customs Convention

Proposed treaty action

- 4.1 The *Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures* (the 1999 Protocol) seeks to replace the original Customs Convention (known as the 1973 Convention).
- 4.2 The 1973 Convention aimed to address the divergences between national customs procedures, the effect of which is to hamper international trade.
- 4.3 Despite dramatic changes to the way in which international trade is conducted, the 1973 Convention has changed little since its inception and is now largely outmoded. It is also widely regarded as having failed to achieve its principal goal of a high level of simplification and harmonisation of customs procedures around the world. Only 61 of 146 members of the World Customs Organisation are parties to the 1973 Convention and more than 1 500 reservations to the various provisions have been lodged.
- 4.4 The 1999 Protocol has been negotiated to update the Convention and ensure that it reflects modern trading and administrative practices.
- 4.5 The 1999 Protocol significantly restructures the Convention, setting out consistent and transparent procedures, including reference to modern management techniques such as risk management, audit-based controls and the use of information technology.

- 4.6 It is designed to facilitate international trade by reducing the complexity of customs rules and establishing predictable and efficient customs procedures. This will be to the benefit of Australian and overseas-based companies seeking to engage in international trade, by reducing costs and delays.¹

Evidence presented

- 4.7 At our hearing we were advised that the Australian Customs Service (ACS) participated very actively in the review which led to the development of the 1999 Protocol, at times taking a leading role in drafting the various annexes to the Protocol.²
- 4.8 One of the features of the 1999 Protocol is a core set of 120 mandatory customs standards. It is not possible for signatories to express reservations about any of these core standards. Reservations may only be made against the recommended practices described in specific annexes to the Protocol.
- 4.9 The ACS has consulted widely about Australia's accession to the 1999 Protocol. An extensive list of commercial and government organisations have all supported accession as a means of minimising the impact of customs activities on normal commercial activities.
- 4.10 We were also advised that:
- the World Customs Organisation is expecting more nations to accede to the 1999 Protocol than were members of the 1973 Convention;
 - Australian customs practices meet or exceed the minimum standards described in the 1999 Protocol;
 - only two legislative amendments will be required to ensure Australian consistency with the 1999 Protocol, both of which are in the process of being implemented following a major cargo management re-engineering project; and
 - accession will not affect Australian surveillance, quarantine, drugs or weapons laws or practices.

1 Material from this section was drawn from the National Interest Analysis for the *International Convention on the Simplification and Harmonisation of Customs Procedures*, (NIA for Customs Procedures), p. 2

2 Unless otherwise indicated, the material in this section was drawn from Peter Gulbransen (ACS), *Transcript of Evidence*, 13 March 2000, pp. TR16-19

- 4.11 At the hearing we also sought information about the extent to which Australia's major trading partners are members of the 1973 Convention and are expected to accept the 1999 Protocol. We were subsequently provided with a document listing the 61 contracting parties to the 1973 Convention, which is reproduced at Appendix E.
- 4.12 This document also reported that six of Australia's ten major trading partners are members of the 1973 Convention and can be expected to accept the 1999 Protocol. Of the remaining four countries, the Hong Kong Special Administrative Region of China is keen to accept the 1999 Protocol; and Singapore and Indonesia, who are both members of the World Customs Organisation, are actively considering acceptance.
- 4.13 As Taiwan is neither a member of the United Nations nor the World Customs Organisation it is not able to be a member of the 1973 Convention or the 1999 Protocol.³

Conclusion and recommendation

- 4.14 The aims of the 1999 Protocol are laudable. We support measures to facilitate international trade, for the benefit of Australian based companies and Australian consumers.
- 4.15 Of course, the impact of the 1999 Protocol will be diminished if it is not widely accepted by the international community, in particular by our major trading partners. The Government, through the agency of the Minister for Foreign Affairs, the Minister for Trade and the Minister for Justice and Customs, should work to promote wide acceptance of the 1999 Protocol amongst members of the World Customs Organisation and acceptance of the principals described in the Protocol in any bilateral agreements negotiated with countries that are not members of the World Customs Organisation.

3 Australian Customs Service, *Exhibit No. 1, International Customs Convention*.

Recommendation 4

- 4.16 **The Committee supports the *Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures*, and recommends that binding treaty action be taken.**

ANDREW THOMSON MP

Committee Chairman

4 April 2000



Appendix A - Extract from Resolution of Appointment

The Resolution of Appointment for the Joint Standing Committee on Treaties allows it to inquire into and report on:

- (a) matters arising from treaties and related National Interest Analyses and proposed treaty actions presented or deemed to be presented to the Parliament;
- (b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:
 - (i) either House of the Parliament, or
 - (ii) a Minister; and
- (c) such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.



Appendix B - National Interest Analyses

Safety of UN and Associated Personnel

Convention on the Safety of United Nations and Associated Personnel, done at New York on 9 November 1994

Date of Proposed Binding Treaty Action

Australia signed the Convention on the Safety of United Nations and Associated Personnel (the Convention), subject to ratification, on 22 December 1995. It is proposed that Australia lodge its instrument of ratification after completion of the treaty making processes, including the enactment of Commonwealth legislation.

The Convention will enter into force for Australia on the thirtieth day after the deposit of Australia's instrument of ratification. In accordance with Article 27, the Convention entered into force generally on 15 January 1999, thirty days following the lodgment of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

Article 22.2 provides that each State Party may, when signing or ratifying the Convention, declare that it does not consider itself bound by all or part of the Convention's dispute settlement provisions. Australia will not be making such a declaration.

Date of Tabling of the Proposed Treaty Action

7 March 2000.

The text of the Convention was tabled in both Houses of the Commonwealth Parliament on 21 June 1995, prior to signature by Australia.

Reasons for Australia to take the Proposed Treaty Action

The Convention is a legal response by the international community to the increasing number of deliberate attacks and other acts of violence against United Nations (UN) and associated personnel deployed in various parts of the world fulfilling the mandate of UN operations. A principal objective of the Convention is to enhance the safety of UN and associated personnel by ensuring that the perpetrators of crimes to which the Convention applies are brought to justice.

"United Nations personnel" are persons engaged or deployed by the Secretary-General of the UN as members of the military, police or civilian components of a UN operation and other officials and experts on mission of the UN or its specialised agencies or the International Atomic Energy Agency who are present in an official capacity in the area where a UN operation is being conducted (Article 1(a)).

"Associated personnel" are

- (i) persons assigned by a government or an intergovernmental organization with the agreement of the competent organ of the UN;
- (ii) persons engaged by the Secretary-General of the UN or by a specialized agency or by the International Atomic Energy Agency; and
- (iii) persons deployed by a humanitarian non-government organization or agency under an agreement with the Secretary-General of the UN or with a specialized agency or with the International Atomic Energy Agency;

to carry out activities in support of the fulfilment of the mandate of a UN operation (Article 1(b)).

Crimes against UN and associated personnel are crimes against persons who act on behalf of the international community, and therefore of concern to all States including Australia. Ratification of the Convention by Australia will demonstrate Australia's support for the conduct of UN operations and international cooperation to ensure that offenders are made individually accountable for their crimes. With the deployment of the UN Mission in East Timor (UNAMET) and the subsequent establishment of the UN Transitional Authority in East Timor (UNTAET), the relevance of the Convention to Australia, which has become both a host and a transit country for increasing numbers of UN and associated personnel, has increased considerably.

Ratification would also encourage other countries to become parties. This would not only improve international law and order and the recognition of the international rule of law, but would also make it safer for Australians who are participating in UN operations.

Obligations

The Convention contains obligations for States Parties as well as for UN and associated Personnel. In brief, the UN and associated personnel obligations are as follows. The personnel and equipment of the military and police components of UN operations must bear distinctive identification (Article 3). All UN and associated personnel must respect the law of the host and transit States, without prejudice to any privileges and immunities they may enjoy, and observe impartiality (Article 6.1). The Secretary-General must take appropriate measures to ensure that these rules are obeyed (Article 6.2). The Secretary-General must also convene meetings of States Parties to review the implementation or application of the Convention at the request of a State Party supported by a majority of States Parties (Article 23).

Article 4 obliges States in whose territory a UN operation is conducted ("host States") to conclude with the UN an agreement on the status of the UN operation and all personnel engaged in the operation, including provisions on privileges and immunities. Article 5 obliges States in whose territory UN and associated personnel or their equipment are in transit or temporarily present in connection with a UN operation ("transit States") to facilitate unimpeded transit of such personnel and equipment to and from the relevant host State.

Article 7 grants UN and associated personnel, their equipment and premises immunity from attack and obliges States Parties to take all appropriate measures to ensure their safety and security. Article 8 grants, subject to relevant provisions of an applicable status of forces agreement, UN and associated personnel captured or detained in the course of their duties immunity from interrogation and imposes an obligation that they be released and handed over to the UN or other appropriate authorities and that their detention pending release is in accordance with universally recognised standards of human rights and the principles and spirit of the Geneva Conventions of 1949.

The Convention's principal obligations relate to the establishment of crimes against UN and associated personnel and cooperative mechanisms for the prevention and prosecution of such crimes. Article 9 obliges Parties to make the following crimes adequately punishable by adequate penalties under their domestic law, when committed intentionally:

- (a) a murder, kidnapping or other attack upon the person or liberty of any UN or associated personnel;
- (b) a violent attack upon the official premises, the private accommodation or the means of transportation of any UN or associated personnel likely to endanger his or her person or liberty;
- (c) a threat to commit any such attack with the objective of compelling a physical or juridical person to do or to refrain from doing any act;

- (d) an attempt to commit any such attack; and
- (e) an act constituting participating as an accomplice in any such attack, or in an attempt to commit such attack, or in organizing or ordering others to commit such attack.

(Article 2(2) excludes from the scope of the Convention a UN operation authorised by the Security Council as an enforcement action under Chapter VII of the Charter of the UN in which any of the personnel are engaged as combatants against organised armed forces and to which the law of international armed conflict applies. Consequently, the above crimes would not apply in such cases.)

Article 7.2 obliges States Parties to take all appropriate steps to protect UN and associated personnel who are deployed in their territory from Article 9 crimes. Article 11 obliges States Parties to cooperate in preventing these crimes, particularly through taking preventive measures and through the exchange of information.

Article 10.1 obliges a State Party to establish jurisdiction over Article 9 crimes when committed in its territory or on board a ship or aircraft registered in that State or the alleged offender is a national of that State. Article 10.2 gives a State Party the discretion to establish jurisdiction over these crimes when committed by a stateless person whose habitual residence is in that State, with respect to a national of that State or in order to compel that State to do or to abstain from doing any act. Australia proposes to establish this discretionary jurisdiction. A State Party which has established the discretionary jurisdiction under Article 10.2, or having established such jurisdiction subsequently rescinds it, must notify the Secretary-General of the UN of the fact in either case (Article 10.3). States Parties are also obliged to establish jurisdiction over these crimes where an alleged offender is present in its territory and it does not extradite that person to a State which has established primary jurisdiction over the offence (Article 10.4). Article 14 obliges a State Party in whose territory an alleged offender is present and which does not extradite him or her to submit the case to its own authorities without exception or undue delay for the purpose of prosecution.

If a crime under Article 9 is committed on the territory of a State Party and that Party has reason to believe the alleged offender has fled from its territory, Article 12.1 obliges that Party to notify the Secretary-General and, either directly or through the Secretary-General, notify any concerned State of all the pertinent facts regarding the crime and the identity of the alleged offender. Article 12.2 obliges States Parties with information about the victim or circumstances of a crime under the Convention to endeavour to transmit that information to the UN Secretary-General and any relevant States.

Article 13 obliges States Parties in whose territory an alleged offender is present to take those measures necessary to ensure his or her presence for the purpose of prosecution or extradition, and to notify the Secretary-General and, either directly

or through the Secretary-General, States with an interest in the case, of these measures. Article 15 obliges States Parties to include the crimes under the Convention in future bilateral extradition treaties and to deem the crimes as included in existing extradition treaties. It further obliges those States Parties which do not make extradition conditional on the existence of a treaty to recognise the crimes in Article 9 as extraditable offences, subject to the conditions provided in the law of the requested State. Those States Parties that do make extradition conditional on the existence of a treaty have the option to consider the Convention as the treaty basis. Article 16 obliges States Parties to afford one another the greatest measure of assistance in connection with criminal proceedings under the Convention, including obtaining evidence. Article 17 obliges States Parties to guarantee fair treatment and a fair trial to any person prosecuted under the Convention, including consular access. Article 18 obliges States Parties to notify the Secretary-General of the UN of the outcome of proceedings.

States Parties undertake in Article 19 to disseminate the Convention as widely as possible and to include it in programs of military instruction.

Article 7.3 obliges States Parties to cooperate with the UN and other States Parties, as appropriate, in the implementation of the Convention, particularly if a host State is unable itself to take the required measures.

Australia will accept the obligation in Article 22.1 to submit any dispute between Australia and one or more other States Parties, which cannot be settled by negotiation, to arbitration or, if the organisation of such arbitration cannot be arranged within six months, to the International Court of Justice at the referral of any party to the dispute.

The Convention does not affect obligations of States Parties or UN and associated personnel under international humanitarian or human rights law, the rights and obligations of States regarding their border control, the obligations of UN and associated personnel under the mandate of a UN operation, the right of States contributing voluntarily to a UN operation to withdraw their personnel, or the entitlement to compensation for death or injury consequent upon participation in UN peace-keeping (Article 20). Neither does it derogate from the right to act in self-defence (Article 21).

Costs

Australia's ratification of the Convention would not impose any direct financial costs. Expenses associated with the prosecution or extradition of a person accused of committing a Convention offence will be met, in Australia's case, from existing budgets.

Future Protocols

The Convention does not provide for the negotiation of future legally binding instruments.

Implementation

Before the Convention can enter into force, the Commonwealth will need to legislate to establish a comprehensive jurisdiction and procedural regime over Convention crimes, but without interfering with the responsibility of the States and Territories to provide for offences committed in Australia. The Convention does not exclude criminal jurisdiction exercised in accordance with national law (Article 10.5) and to a large extent the Convention obligations are already implemented through existing State and Territory criminal laws dealing with murder, kidnapping, violent attacks etc.

This approach will ensure that Australia's obligations under the Convention are met by covering any gap in State or Territory law, such as in relation to the application of ancillary offences committed outside Australia's jurisdiction. The existence of Commonwealth legislation providing that Convention crimes are federal offences will also guard against any challenge to the extradition of a person present in Australia on the grounds that double criminality does not exist where the alleged conduct is a Convention crime in the national law of the country requesting extradition but a UN element is not present in the applicable State or Territory law.

Consultation

Australia's proposed ratification of the Convention was advised to the States and Territories through the Standing Committee on Treaties. To date there has been no request for further information. Further, there has been extensive consultation between the Commonwealth and the States and Territories on whether Australia would become a party to the Convention and, if so, the arrangement by which Australia would legislate domestically to implement the Convention obligations. Prior to signature of the Convention for Australia, the State and Territory Attorneys-General agreed to the complementary legislative arrangement outlined under "implementation" above.

There has also been consultation with interest groups such as the UN Association, the Red Cross Society and the Returned and Services League of Australia (RSL).

Withdrawal or Denunciation

The Convention provides for denunciation by written notice to the Secretary-General of the UN. Denunciation takes effect one year after that notice is received (Article 28).

Contact Details

Security Law and Justice Branch
Information and Security Law Division
Attorney-General's Department

Partial Withdrawal of Reservation to CEDAW

United Nations Convention on the Elimination of all Forms of Discrimination Against Women – Partial Withdrawal of Australia's reservation concerning women in combat and combat related duties

Date of Proposed Binding Treaty Action

At the time of ratification of the 1979 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) on 28 July 1983, Australia lodged two reservations. The first reservation relates to maternity leave with pay or with comparable social benefits pursuant to Article 11 2(b). The other reservation concerns women in combat and combat related duties. Changes to Australia's Defence Force (ADF) policy and relevant legislation since ratification allow the reservation dealing with combat and combat related duties to be altered to withdraw the reference to combat related duties. The reservation relating to maternity leave will remain unchanged.

It is proposed that Australia's notification of partial withdrawal be lodged with the Secretary-General of the United Nations as soon as practicable from 14 April 2000. It is expected that Australia's treaty making requirements will have been met by then.

Date of Tabling of the Treaty Action

7 March 2000.

Reasons for Australia to take the Proposed Treaty Action

The purpose of CEDAW is to promote equality of rights between women and men and to improve the status of women by eliminating gender based discrimination. CEDAW recognises that discrimination against women violates the principles of equal rights and respect for human dignity and is an obstacle to the equal participation of women in political, social, economic, community and cultural life. CEDAW was created in the recognition that despite various international human rights instruments, extensive discrimination against women continues to exist.

CEDAW entered into force generally on 3 September 1981 and for Australia on 27 August 1983. As of February 2000 there were 165 states party to CEDAW.

When Australia ratified CEDAW it lodged two reservations. The reservation relating to women in combat and combat related duties is the subject of this treaty action. The reservation was lodged because Australian Defence Force policy and domestic law were inconsistent with CEDAW in this respect. The text of the original reservation is as follows:

The Government of Australia advises that it does not accept the application of the Convention in so far as it would require alteration of Defence Force policy which excludes women from combat and combat related duties. The Government of Australia is reviewing this policy so as to more closely define "combat" and "combat related duties".

However, since 1992 ADF policy has been that women may perform combat related duties. In addition, Section 31 of the *Sex Discrimination Amendment Act 1995* has omitted the reference to combat related duties contained in section 43 of the *Sex Discrimination Act 1984*, confining the exemption to combat duties.

This allows a partial withdrawal of Australia's original reservation so that it applies only to the involvement of women in combat duties. The text of the reservation would then read:

The Government of Australia advises that it does not accept the application of the Convention in so far as it would require alteration of Defence Force Policy which excludes women from combat duties.

Existing defence force policy continues to exclude women from combat duties. Section 43 of the *Sex Discrimination Act 1984* continues to exempt from its anti-discrimination requirements discrimination against a woman on "the ground of her sex in connection with employment, engagement or appointment in the Defence force:

- in a position involving the performance of combat duties; or
- in prescribed circumstances in relation to combat duties".

Combat duties are declared under regulation 3 of the Sex Discrimination Regulations to be duties "requiring a person to commit, or to participate directly in the commission of, an act of violence against an adversary in time of war".

Obligations

The proposed treaty action relates only to the partial withdrawal of an existing reservation. Article 18 of CEDAW requires States Parties to submit regular reports on the measures they have adopted to give effect to the provisions of CEDAW. Australia has been submitting these reports since it ratified CEDAW in 1983. The partial withdrawal of the reservation means that Australia will now be obliged to report on the measures adopted in respect of the involvement of women in combat related duties. It should be noted in this context that Australian law already prevents discrimination against women in combat related duties.

Costs

No financial costs to Australia are anticipated as a result of the partial withdrawal of the reservation.

Future protocols etc

The treaty action under consideration does not commit Australia to the negotiation of future related legally binding instruments.

Implementation

The partial withdrawal of the reservation expands Australia's treaty obligation in accordance with current domestic law and policy.

Since 1992 ADF policy has permitted women to serve in all ADF units except combat units. Since 16 December 1995, section 43 of the *Sex Discrimination Act 1984* has referred solely to combat duties.

No State or Territory action is needed to implement the modification.

Consultation

As early as the date of ratification of CEDAW in 1983, the Australian Government indicated that it was reviewing ADF policy in relation to combat and combat related duties.

Since 1995 State and Territory Governments have been made aware of the proposed partial withdrawal of Australia's reservation concerning 'combat related duties' through the Standing Committee on Treaties (SCOT). The Minister Assisting the Prime Minister for the Status of Women also wrote to all State and Territory Governments notifying them of the proposal. No opposition was expressed to the partial withdrawal.

The Office of the Status of Women conducted meetings with the States and Territories in August 1998. State and Territory representatives made no objection to the proposed partial withdrawal when their views were requested, both verbally at consultation, and in written submissions.

Consultations with non government organisations (NGOs) and members of the public took place in Canberra on 28 August 1998. Unanimous support for the partial withdrawal was given by a large group of NGO representatives and other members of the community. Attendees included the Returned Servicemen's League, the Red Cross, Women's Rights Action Network, the United Nations Association of Australian Status of Women Network, Australian National Committee on Refugee Women, National Council of Women of Australia, Australian Business and Professional Women, the Young Women's Christian Association, the National Foundation of Australian Women, the Australian Council of Trade Unions and the Human Rights and Equal Opportunities Commission.

Withdrawal or denunciation

Under Article 28 of CEDAW a reservation may be withdrawn at any time by notification to the Secretary-General of the United Nations.

CEDAW does not contain an express provision dealing with withdrawal or denunciation. In these circumstances a State Party may withdraw from CEDAW at any time by consent of all parties pursuant to Article 54 of the Vienna Convention on the Law of Treaties.

Contact details

Office of the Status of Women
Department of the Prime Minister and Cabinet

Amendment to International Convention on the Simplification and Harmonisation of Customs Procedures

Protocol of Amendment, done at Brussels on 26 June 1999, to the International Convention on the Simplification and Harmonization of Customs Procedures of 18 May 1973

Date of the Proposed Binding Treaty Action

It is proposed that Australia consent to be bound by the 1999 Protocol, including Appendices I and II, in accordance with Article 3.1. It is anticipated that this take place as soon as practical after 13 April 2000, although the means is not settled yet.

Australia will, at the same time, notify acceptance of 18 of the Chapters of the ten optional Specific Annexes, as well as 24 reservations against Recommended Practices included in those Chapters (Article 4). This is further addressed under 'Obligations' below.

The 1999 Protocol shall enter into force three months after 40 Contracting Parties have expressed their consent to be bound.

Date of Tabling of the Proposed Treaty Action

7 March 2000.

Reasons for Australia to take the Proposed Treaty Action

Background

The International Convention on the Simplification and Harmonization of Customs Procedures (the "1973 Convention" for the purposes of this document, but also known as the Kyoto Convention) was finalised under the auspices of the Customs Co-operation Council in 1973 and entered into force generally on 25 September 1974 and for Australia on 3 March 1975.

The 1973 Convention consists of a Preamble and Articles of the Convention, which contain general provisions dealing with the scope, structure, administration, accession and amendment procedures, and 31 optional Annexes which deal with separate Customs procedures. The 31 optional Annexes consist of:

- (a) Standards, being those provisions the general application of which is recognised as necessary for the achievement of harmonisation and simplification of customs procedures.
- (b) Recommended Practices, being those provisions which are recognised as constituting progress towards the harmonisation and the simplification of

customs procedures, the widest possible application of which is considered to be desirable.

To be bound by the Convention a Contracting Party has to accede to at least one of the optional Annexes.

The 1973 Convention aimed to address the divergences between national customs procedures which hamper international trade. Australia became a party to the Convention as it was considered that the Convention's provisions harmonised and simplified customs procedures and contributed to the improved efficiency of Customs Administrations.

Since its entry into force, the 1973 Convention has remained largely unchanged in spite of many attempts to modernise it. It is seen to have achieved little success with its principal goal of a high level of simplification and harmonisation of customs procedures. Only 61 of 146 Members of the World Customs Organization are Contracting Parties and more than 1500 reservations to the various provisions have been lodged. This, as well as the fact that Contracting Parties were required to be bound by one of the Annexes, whilst the others were optional, significantly limited the extent to which Contracting Parties are bound by the provisions of the Convention and therefore their effects.

A review of the 1973 Convention was undertaken to ensure the Convention would appropriately reflect the international trading environment and incorporate modern administrative practices which had been implemented by many countries in the period since its entry into force. Restructuring was necessary to reduce the number of core provisions being optional.

The outcome was the 1999 Protocol of Amendment. In relations between the Parties to the 1999 Protocol, the Protocol and its appendices shall supersede the 1973 Convention.

1999 Protocol of Amendment

The 1999 Protocol significantly restructures and replaces the 1973 Convention and its Annexes as follows.

- (a) The Preamble and Articles of the 1973 Convention are amended by Appendix I of the Protocol.
- (b) The Annexes of the Convention are replaced by the Protocol's mandatory General Annex in Appendix II together with 10 optional Specific Annexes with 25 Chapters in Appendix III.

As with the 1973 Convention, Appendices II and III of the 1999 Protocol consists of Standards and Recommended Practices. Appendix II also includes Transitional Standards which are Standards for which a longer period for implementation is allowed. Each Annex is accompanied by non-binding Guidelines, which explain the provisions of the Annexes.

To become a Contracting Party to the amended Convention, a Contracting Party must express its consent to be bound by the 1999 Protocol including Appendix I and Appendix II.

The 1999 Protocol, once in force, will more effectively simplify and harmonise customs procedures and practices without compromising appropriate standards of customs control. It sets out consistent and transparent procedures that include modern management techniques such as risk management, audit-based controls and the use of information technology. The 1999 Protocol aims to provide international commerce with predictable and efficient customs procedures that modern trade requires.

Becoming a party to the 1999 Protocol allows Australia to contribute further to the facilitation of international trade in an internationally agreed manner, which reduces complexity and differences between customs procedures, which can be barriers to trade. Australian industry will benefit as costs and delays to trade should be minimised and rules will become more uniform and predictable.

The 1999 Protocol will still allow for flexibility of application through optional annexes/chapters/reservations but by widening the core provisions contained in obligatory sections, it ensured that a higher level of simplification and harmonisation of customs procedures is achievable.

Obligations

Obligatory (not optional)

Each Contracting Party of the 1999 Protocol undertakes to promote simplification and harmonisation of customs procedures in accordance with the Protocol's provisions. However, Appendix I, Article 2 of the 1999 Protocol recommends that Contracting Parties provide greater facilities than those provided. In other words the 1999 Protocol sets out a minimum set of Standards and Contracting Parties may go further than these Standards.

Appendix I, Article 3 provides clear authority for Contracting Parties to continue to administer the prohibition and restrictions on goods which are subject to Customs control that are contained in national legislation. This means that the provisions of the 1999 Convention do not preclude or prevent the application of prohibition and restrictions on goods set out in Australia's legislation such as quarantine controls.

The term 'national legislation' is defined broadly in Appendix 1 Article 1. In Australia's context this would not only include the Customs Act 1901 but also other related legislation, regulations and Australian Customs Notices.

Appendix I, Chapter III, Article 6 outlines that a Management Committee will be established to consider implementation of the 1999 Convention, including any measures to secure uniformity of the interpretation and application and any

amendments to the Body, General Annex, Specific Annexes and Chapters to Specific Annexes as well as new Specific Annexes or Chapters. The Management Committee may also amend any Recommended Practice or incorporate new Recommended Practices. Contracting Parties shall be members of the Management Committee. When a decision cannot be arrived at by consensus, matters before the Management Committee shall be decided by voting of the present Contracting Parties.

The General Annex includes core provisions which are applicable to all customs procedures. It sets out in excess of 120 Standards covering modern management techniques such as risk management, audit, use of information technology and include clearance formalities, duties and taxes, security, customs control, the relationship between the customs and third parties, information decisions, as well as rulings and appeals in customs matters.

The General Annex is binding to Contracting Parties and is considered necessary to achieve simplification and harmonisation of Customs procedures. No reservations are permitted to the provisions in the General Annex. Having to be bound by the General Annex is a new requirement to the 1999 Protocol as under the 1973 Convention, no Annexes were obligatory, although one had to be selected, and reservations could be lodged against all Standards and Recommended Practices.

Obligations of Optional Annexes/Chapters to be accepted

Acceptance of the Specific Annexes or one or more of the Chapters within those Annexes is optional and each needs to be considered individually. A Contracting Party will be bound by all of the Standards in the Specific Annexes it accepts. Reservations are permitted, however, against Recommended Practices included in the Specific Annexes (Article 4 of the Protocol).

It is proposed that Australia express its consent to be bound by the following six Specific Annexes in full and Chapters of a further two:

Specific Annex A (in full)	
Chapter 1	Formalities prior to the lodgement of the goods declaration.
Chapter 2	Temporary storage of goods
Specific Annex B (in full)	
Chapter 1	Clearance for home use*
Chapter 2	Re-importation in the same state*
Chapter 3	Relief from import duties and taxes*
Specific Annex C (in full)	
Chapter 1	Outright exportation
Specific Annex D	
Chapter 1	Customs warehouses
Specific Annex E (in full)	
Chapter 1	Customs transit
Chapter 2	Transshipment*
Chapter 3	Carriage of goods coastwise*

Specific Annex F	
Chapter 1	Inward processing*
Chapter 3	Drawback
Specific Annex G (in full)	
Chapter 1	Temporary admission*
Specific Annex J (in full)	
Chapter 1	Travellers*
Chapter 2	Postal traffic
Chapter 3	Means of transport for commercial use
Chapter 4	Stores*
Chapter 5	Relief consignments

*Indicates Specific Annexes or Chapters within those Annexes to which Australia was not bound under the 1973 Convention.

All Specific Annexes existed under the 1973 Convention and came into force except for Annex E, Chapter 3. Under the 1973 Convention an Annex entered into force once five Contracting Parties had accepted it.

Reservations

At the time of notification of consent to be bound to the above Specific Annexes or Chapters within those Annexes, it has been decided that Australia lodge reservations to 24 Recommended Practices within them. These reservations will be reviewed by Australia every three years to examine the possibility of withdrawing the reservation. Results of the review are to be notified to the World Customs Organization (Appendix I, Article 12.3).

Costs

The 1999 Protocol will not impose any foreseeable additional financial expenditure on Australia.

Future Protocols etc

According to Appendix I, Chapter IV, Article 8.3 a Contracting Party may subsequently accept one or more Specific Annexes or Chapters within those Annexes. If Australia subsequently decides to be bound by a Specific Annex or Chapter within those Annexes, it will constitute a treaty action for Australia and will need to go through domestic treaty processes first; the same would apply to any future amendment.

Implementation

Apart from the provisions of the 1999 Protocol relating to authorised persons and deferred revenue payments Australia's domestic legislation already complies with the Provisions in the 1999 Protocol that is, the General Annex and the Specific Annexes listed under the heading 'Obligations'. Therefore, apart from the Transitional Standard relating to authorised persons (Transitional Standard 3.32 of the General Annex) and deferred revenue payments (Standards 4.15, 4.16 and 4.17

of the General Annex) no legislative changes are required to implement the 1999 Protocol.

Special arrangements for authorised persons and deferred revenue payments are relatively new initiatives which are being introduced for traders considered low risk. They provide these traders with a streamlined process for clearing their goods. These initiatives are already underway as part of the Australian Customs Service's Cargo Management Re-engineering Project and the legislative changes, together with other changes to the *Customs Act 1901*, are expected to go before Parliament this year. This project is unrelated to the review of the 1973 Convention and emanated from a detailed examination of the effectiveness and efficiency of Customs systems in a changing commercial and technological environment. There has been considerable consultation with industry and other Government agencies during the course of this project.

At the time of consenting to be bound by the 1999 Protocol, Australia will not consent to be bound by a number Specific Annexes and Chapters within those Annexes in the 1999 Protocol as they are either inconsistent with current policy or not applicable to the Australian environment, for example provisions for free trade zones. Australia may consider accepting additional Specific Annexes other than those listed under 'Obligations' at a later date.

Australia will also notify the World Customs Organization of 24 reservations against Recommended Practices in the Specific Annexes and Chapters within those Annexes because Australia does not fully comply with these provisions. In some cases Australian domestic legislation does not comply. An example of where Australia does not comply is Specific Annex D, Chapter 1, Recommended Practice 7. Australia pays a refund for customs duty on exported goods when they are exported rather than when they are placed in a warehouse. As indicated under the heading 'Obligations' these reservations are required to be reviewed by Australia every three years.

In general terms, following entry into force of the 1999 Convention a period of three years is available to allow Contracting Parties to bring their legislation into conformity with the provisions that is, the standards contained in the General Annex and the Specific Annexes that the Contracting Parties has accepted. A longer period of five years is permitted for Transitional Standards which are considered to be more difficult for countries to implement (Appendix I, Article 13). Australia will meet these requirements and conform within the required timeframes to provisions in the General Annex and indicated Specific Annexes and Chapters.

Consultation

Since commencement of the review of the 1973 Convention in 1994, the Australian Customs Service has actively participated in the amendment process by providing

input to the redrafting process and attending numerous working groups and other relevant meetings called by the World Customs Organization.

The Australian Customs National Consultative Committee (which includes representatives from the trading community such as the Customs Brokers Council of Australia, Law Council of Australia, Australian Chamber of Shipping, Australian Federation of International Forwarders, International Air Couriers Association of Australia, Australian Chamber of Commerce, Australian Air Transport Association and Institute of Chartered Accountants) has been kept informed during the review process and Members have been encouraged to comment on the final text of the 1999 Protocol.

Consultation on the final text of the 1999 Protocol has also been undertaken with industry by way of an Australian Customs Notice (which is distributed to over 1300 importers, exporters, customs brokers, freight forwarders, embassies and government agencies), by placing an article requesting comments on the Australian Customs Service Internet Home Page and through the Cargo Management Re-engineering Industry Reference Group which is part of the projects external consultative arrangements (which also includes representatives from the trading community as listed above as well as others such as the Association of Australian Ports and Marine Authorities, Australian Trucking Association, Australian Shipping Federation, Tradegate ECA, Food and Beverage Importers, Federal Chamber of Automotive Industries, QANTAS, Australian Stock Exchange Ltd.).

All responses supported Australia's consent to be bound by the 1999 Protocol.

Notification of the proposed amendment of the Convention has been provided to the States and Territories through the Standing Committee on Treaties' Schedule of Treaty Action and no comment has been received to date. The 1999 Protocol does not require State or Territory action for its domestic implementation.

Withdrawal or denunciation

Any Contracting Party may denounce the 1999 Protocol at any time after the date of its entry into force by an instrument in writing. The denunciation takes effect six months after receipt of the instrument by the Secretary General of the Council. Any Contracting party which withdraws its acceptance of the General Annex shall be deemed to have denounced the 1999 Protocol (Appendix I, Article 17).

Contact details

International Section
Planning and International Branch
Australian Customs Service



Appendix C - Submissions

Proposed Convention on the Safety of United Nations and Associated Personnel

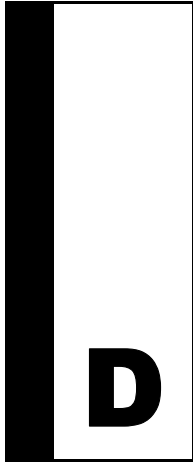
Submission No.	Organisation/Individual
1	United Nations Association of Australian Incorporated
2	Roy Abbott
3	Australian Red Cross
4	World Vision Australia
5	Australian Council for Overseas Aid
6	Standing Committee on Uniform Legislation and Intergovernmental Agreements, Western Australia Legislative Assembly
7	Premier of South Australia

Proposed Partial Withdrawal of Australia's reservation concerning women in combat and combat related duties to CEDAW

Submission No.	Organisation/Individual
1	Festival of Light (SA)
2	Australian Family Association (WA Division)
3	Endeavour Forum Inc.
4	The Institute of Men's Studies
5	Standing Committee on Uniform Legislation and Intergovernmental Agreements, Western Australia Legislative Assembly

Proposed Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures

Submission No.	Organisation/Individual
1	Standing Committee on Uniform Legislation and Intergovernmental Agreements, Western Australia Legislative Assembly
2	Australian Customs Service



Appendix D - Witnesses at Public Hearings

Monday, 13 March 2000, Canberra

Department of Foreign Affairs and Trade

David Mason, Executive Director, Treaties Secretariat, Legal Branch

Attorney-General's Department

Robyn Frost, Principal Legal Officer, Office of International Law

Proposed Convention on the Safety of United Nations and Associated Personnel

Attorney-General's Department

Keith Holland, Assistant Secretary, Security Law and Justice Branch

Norman Bowman, Senior Legal Officer, Security Law and Justice Branch

Michael Manning, Principal Legal Officer, International Branch, Criminal Law Division

Department of Foreign Affairs and Trade

Mr Peter Scott, Executive Officer, International Law Section, Legal Branch

Proposed Partial Withdrawal of Australia's reservation concerning women in combat and combat related duties to CEDAW

Department of Prime Minister and Cabinet

Karen Bentley, Assistant Secretary, Office of the Status of Women

Department of Defence

Commodore Raydon Gates, Director-General, Career Management Policy

Department of Foreign Affairs and Trade

Robyn Stern, Acting Director, International Law Section

Gabrielle Simm, Desk Officer, International Law Section

Proposed International Convention on the Simplification and Harmonization of Customs Procedures**Australian Customs Service**

Peter Gulbransen, National Manager, Import/Export Management Branch

Greg Weppner, Director, Temporary Imports, Refunds and Brokers Licensing

Sylvia Kyle, Assistant Director, International

Sue Pitman, National Manager, Planning and International



Appendix E - Parties to the 1973 International Customs Convention

Following is a list of the 61 contracting parties to the 1973 *International Convention on the Simplification and Harmonization of Customs Procedures*.

Algeria	Australia	Austria
Belgium	Botswana	Bulgaria
Burundi	Cameroon	Canada
China	Congo	Cote D'ivoire
Croatia	Cuba	Cyprus
Czech Republic	Denmark	Finland
France	Gambia	Germany
Greece	Hungry	India
Ireland	Israel	Italy
Japan	Kenya	Korea
Latvia	Lesotho	Luxemburg
Malaysia	Malawi	Morocco
Netherlands	New Zealand	Nigeria
Norway	Pakistan	Poland
Portugal	Rwanda	Saudi Arabia
Senegal	Slovakia	Slovenia
South Africa	Spain	Sri Lanka
Sweden	Switzerland	Turkey
Uganda	United Kingdom	United States
Vietnam	Zambia	Zimbabwe
European Community		